



April 3, 2015

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# ENGROSSED SENATE BILL No. 516

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DIGEST OF SB 516 (Updated April 1, 2015 3:36 pm - DI 103)

**Citations Affected:** IC 8-1.

**Synopsis:** Utility infrastructure improvements. Amends the law on water and wastewater utility distribution system improvement charges so that the law applies to municipally owned utilities and not-for-profit utilities as well as to public utilities. Allows a municipally owned utility or not-for-profit utility that is under the jurisdiction of the utility regulatory commission (commission) for the approval of rates and charges to petition the commission for the adjustment of its basic rates and charges to provide for the recovery of infrastructure improvement costs. Provides that "infrastructure improvement costs", for a municipally owned utility, means debt service and depreciation expenses associated with eligible infrastructure improvements and, for a not-for-profit utility, means debt service associated with eligible infrastructure improvements. Defines "eligible infrastructure improvements" for purposes of municipally owned and not-for-profit utilities. Allows the commission to consider certain factors in determining the amount of infrastructure improvement costs that a not-for-profit utility or a municipally owned utility will be allowed to recover.

**Effective:** July 1, 2015.

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**Charbonneau, Eckerty, Merritt,  
Tallian**

(HOUSE SPONSORS — SPEEDY, KOCH)

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January 14, 2015, read first time and referred to Committee on Utilities.  
January 15, 2015, reassigned to Committee on Environmental Affairs.  
February 16, 2015, amended, reported favorably — Do Pass.  
February 19, 2015, read second time, ordered engrossed. Engrossed.  
February 23, 2015, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

March 5, 2015, read first time and referred to Committee on Utilities, Energy and Telecommunications.  
April 2, 2015, amended, reported — Do Pass.

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ES 516—LS 7363/DI 103





April 3, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## ENGROSSED SENATE BILL No. 516

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A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 8-1-31-1.3, AS ADDED BY P.L.209-2014,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2015]: Sec. 1.3. As used in this chapter, "adjustment amount"  
4       means the amount proposed in a petition filed under section 8 of this  
5       chapter to allow the adjustment of ~~a public~~ **an eligible** utility's basic  
6       rates and charges to provide for recovery of infrastructure improvement  
7       costs.  
8       SECTION 2. IC 8-1-31-5, AS AMENDED BY P.L.209-2014,  
9       SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10       JULY 1, 2015]: Sec. 5. As used in this chapter, "eligible infrastructure  
11       improvements" means new used and useful water or wastewater utility  
12       **distribution or collection** plant projects that:  
13       (1) do not increase revenues by connecting ~~a distribution or~~  
14       ~~collection system~~ to new customers; **and**  
15       (2) **either:**  
16             **(A) for a public utility:**

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(i) are in service; and

~~(ii)~~ (ii) were not included in the public utility's rate base in its most recent general rate case; or

**(B) for a municipally owned or not-for-profit utility:**

(i) were put in service or approved by the commission for funding after the utility's pro forma test year in its most recent general rate case; and

(ii) are not subject to another rate adjustment mechanism.

SECTION 3. IC 8-1-31-5.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.2. As used in this chapter, "eligible utility" means a:**

**(1) public utility;**

**(2) municipally owned utility; or**

**(3) not-for-profit utility;**

**that provides water or wastewater service and is under the jurisdiction of the commission for the approval of rates and charges.**

SECTION 4. IC 8-1-31-5.5, AS ADDED BY P.L.209-2014, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.5. As used in this chapter, "infrastructure improvement costs" means the following:**

**(1) For a public utility, depreciation expenses and pretax return associated with eligible infrastructure improvements.**

**(2) For a municipally owned utility, debt service and depreciation expenses associated with eligible infrastructure improvements.**

**(3) For a not-for-profit utility, debt service associated with eligible infrastructure improvements.**

SECTION 5. IC 8-1-31-5.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.9. As used in this chapter, "not-for-profit utility" has the meaning set forth in IC 8-1-2-125(a). The term includes a utility company owned, operated, or held in trust by a consolidated city.**

SECTION 6. IC 8-1-31-6, AS AMENDED BY P.L.209-2014, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6. As used in this chapter, "pretax return" means the revenues necessary to:**

**(1) produce net operating income equal to the a public utility's weighted cost of capital multiplied by the net original cost of**



1 eligible distribution or collection system improvements; and

2 (2) pay state and federal income taxes applicable to such income.

3 SECTION 7. IC 8-1-31-7 IS REPEALED [EFFECTIVE JULY 1,  
4 2015]. Sec. 7: As used in this chapter, "public utility" means a:

5 (1) public utility (as defined in IC 8-1-2-1(a)); or

6 (2) municipally owned utility (as defined in IC 8-1-2-1(h)).

7 SECTION 8. IC 8-1-31-8, AS AMENDED BY P.L.209-2014,  
8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2015]: Sec. 8. (a) Except as provided in subsection (d), a  
10 public utility providing water or wastewater service an eligible utility  
11 may file with the commission a petition setting forth rate schedules  
12 establishing an amount that will allow the adjustment of the public  
13 eligible utility's basic rates and charges to provide for recovery of  
14 infrastructure improvement costs.

15 (b) The public eligible utility shall serve the office of the utility  
16 consumer counselor a copy of its filing at the time of its filing with the  
17 commission.

18 (c) Publication of notice of the filing is not required.

19 (d) A public An eligible utility may not file a petition under this  
20 section in the same calendar year in which the public eligible utility has  
21 filed a request for a general increase in the basic rates and charges of  
22 the public eligible utility.

23 SECTION 9. IC 8-1-31-9, AS AMENDED BY P.L.209-2014,  
24 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2015]: Sec. 9. (a) When a petition is filed under section 8 of  
26 this chapter, the commission shall conduct a hearing.

27 (b) The office of the utility consumer counselor may examine  
28 information of the public eligible utility to confirm that the  
29 infrastructure improvements are in accordance with section 5 of this  
30 chapter, to confirm proper calculation of the adjustment amount  
31 proposed under section 8(a) of this chapter, and submit a report to the  
32 commission not later than thirty (30) days after the petition is filed.

33 (c) The commission shall hold the hearing and issue its order not  
34 later than sixty (60) days after the petition is filed.

35 (d) If the commission finds that a petition filed under section 8 of  
36 this chapter complies with the requirements of this chapter, the  
37 commission shall enter an order approving the petition.

38 SECTION 10. IC 8-1-31-10, AS AMENDED BY P.L.209-2014,  
39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2015]: Sec. 10. (a) Except as provided in subsection (b), a  
41 public an eligible utility may, but is not required to, file a petition for  
42 a change in its initial adjustment amount not more often than one (1)



time every twelve (12) months.

(b) Except as provided in section 15 of this chapter, a ~~public~~ **an eligible** utility may not file a petition described in subsection (a) in the same calendar year in which the ~~public~~ **eligible** utility has filed a request for a general increase in the basic rates and charges of the ~~public~~ **eligible** utility.

SECTION 11. IC 8-1-31-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.5. In determining the amount of allowable recovery of infrastructure improvement costs for a municipally owned utility, the commission may consider the following factors:**

(1) Debt service on funds borrowed to pay for eligible infrastructure improvements.

(2) Depreciation expenses on eligible infrastructure improvements based on the same rate or rates of depreciation approved by the commission for the calculation of depreciation in the utility's most recent rate case.

(3) Other components that the commission considers appropriate.

SECTION 12. IC 8-1-31-11.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.6. In determining the amount of allowable recovery of infrastructure improvement costs for a not-for-profit utility, the commission may consider the following factors:**

(1) Debt service on funds borrowed to pay for eligible infrastructure improvements.

(2) Other components that the commission considers appropriate.

SECTION 13. IC 8-1-31-13, AS AMENDED BY P.L.209-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 13.** The commission may not approve a petition filed under section 8 or 10 of this chapter to the extent it would produce total adjustment revenues exceeding five percent (5%) of the ~~public~~ **eligible** utility's base revenue level approved by the commission in the ~~public~~ **eligible** utility's most recent general rate proceeding.

SECTION 14. IC 8-1-31-14, AS AMENDED BY P.L.209-2014, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 14.** An adjustment amount proposed under section 8 of this chapter may be calculated based on a reasonable estimate of sales in the period in which the charge will be in effect. At the end of



1 each twelve (12) month period following the date on which the  
2 commission initially approves an adjustment amount for a ~~public an~~  
3 **eligible** utility following the ~~public eligible~~ utility's most recent general  
4 rate case, and using procedures approved by the commission, the ~~public~~  
5 **eligible** utility shall reconcile the difference between adjustment  
6 revenues and infrastructure improvement costs during that period and  
7 recover or refund the difference, as appropriate, through additional  
8 adjustments.

9 SECTION 15. IC 8-1-31-15, AS AMENDED BY P.L.209-2014,  
10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2015]: Sec. 15. ~~A public~~ **An eligible** utility for which the  
12 commission has approved a petition under section 8 or 10 of this  
13 chapter shall file revised rate schedules resetting the adjustment  
14 amount if new basic rates and charges become effective for the ~~public~~  
15 **eligible** utility following a commission order authorizing a general  
16 increase in rates and charges that includes in the utility's rate base  
17 eligible infrastructure improvements reflected in the adjustment  
18 amount.



Report of the President  
Pro Tempore

Madam President: Pursuant to Senate Rule 68(b), I hereby report that SB 516, currently assigned to the Committee on Utilities, be reassigned to the Committee on Environmental Affairs.

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COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 516, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 8 through 16, begin a new paragraph and insert:  
"SECTION 2. IC 8-1-31-5, AS AMENDED BY P.L.209-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. As used in this chapter, "eligible infrastructure improvements" means new used and useful water or wastewater utility **distribution or collection** plant projects that:

- (1) do not increase revenues by connecting a ~~distribution or collection system~~ to new customers;
- (2) are:
  - (A) in service; or
  - (B) approved for debt funding by the commission; and
- (3) either:
  - (A) for a public utility, were not included in the public utility's rate base in its most recent general rate case; or
  - (B) for a municipally owned or not-for-profit utility:
    - (i) were put in service or approved by the commission for funding after the utility's pro forma test year in its most recent general rate case; and
    - (ii) are not subject to another rate adjustment mechanism."

Page 2, delete lines 1 through 4.

Page 2, line 12, delete "." and insert "**and is under the jurisdiction of the commission for the approval of rates and charges.**".

Page 2, delete lines 13 through 33, begin a new paragraph and insert:





"SECTION 2. IC 8-1-31-5.5, AS ADDED BY P.L.209-2014, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.5. As used in this chapter, "infrastructure improvement costs" means **the following:**

- (1) **For a public utility**, depreciation expenses and pretax return associated with eligible infrastructure improvements.
- (2) **For a municipally owned utility, debt service and depreciation expenses associated with eligible infrastructure improvements.**
- (3) **For a not-for-profit utility, debt service associated with eligible infrastructure improvements."**

Page 4, delete lines 10 through 25, begin a new paragraph and insert:

"SECTION 12. IC 8-1-31-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.5. **In determining the amount of allowable recovery of infrastructure improvement costs for a municipally owned utility, the commission may consider the following factors:**

- (1) **Debt service on funds borrowed to pay for eligible infrastructure improvements.**
- (2) **Depreciation expenses on eligible infrastructure improvements based on the same rate or rates of depreciation approved by the commission for the calculation of depreciation in the utility's most recent rate case.**
- (3) **Other components that the commission considers appropriate.**

SECTION 13. IC 8-1-31-11.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11.6. **In determining the amount of allowable recovery of infrastructure improvement costs for a not-for-profit utility, the commission may consider the following factors:**

- (1) **Debt service on funds borrowed to pay for eligible infrastructure improvements.**
- (2) **Other components that the commission considers**



**appropriate."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 516 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 9, Nays 0.

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#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 516, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 8 through 16, begin a new paragraph and insert:

"SECTION 2. IC 8-1-31-5, AS AMENDED BY P.L.209-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. As used in this chapter, "eligible infrastructure improvements" means new used and useful water or wastewater utility **distribution or collection** plant projects that:

(1) do not increase revenues by connecting a ~~distribution or collection system~~ to new customers; **and**

(2) **either:**

**(A) for a public utility:**

(i) are in service; and

~~(ii)~~ **(ii)** were not included in the public utility's rate base in its most recent general rate case; **or**

**(B) for a municipally owned or not-for-profit utility:**

(i) were put in service or approved by the commission for funding after the utility's pro forma test year in its most recent general rate case; and



**(ii) are not subject to another rate adjustment mechanism."**

Page 2, delete lines 1 through 10.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 516 as printed February 17, 2015.)

KOCH

Committee Vote: yeas 10, nays 0.

